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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,584	06/29/2001	Chung-Sheng Li	Y0R920010407US1	7893
7590	04/07/2006			EXAMINER
Ryan, Mason & Lewis, LLP 90 Forest Avenue Locust Valley, NY 11560			SHEIKH, ASFAND M	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/896,584	LI ET AL.
	Examiner Asfand M. Sheikh	Art Unit 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 February 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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**DETAILED ACTION**

The Examiner withdraws the objection to the Abstract in light of Applicant's amendment of the Abstract.

The Examiner maintains the same grounds of rejection for claims 1-26.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9, 11-23 and are rejected under 35 U.S.C. 102(e) as being anticipated by Salvo et al. U.S. Pat. 6,341,271 (hereinafter Salvo).

**As per claim 1**, Salvo discloses automatically collecting information relating to a status associated with at least one inventory item (col. 3, lines 52-55 and col. 4, lines 32-41) and automatically accessing at least one electronic marketplace in order to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item via the at least one electronic marketplace (col. 3, lines 57-62 and col. 6, lines 7-49).

**As per claims 2 and 16**, Salvo discloses the electronic market place accessing step further comprises monitoring at least one of pricing and supply trends associated with at least one electronic marketplace on the at least one inventory item (col. 6, lines 11-19).

**As per claims 3 and 17**, Salvo discloses the one or more optimal parameters comprise an optimal time to acquire the at least one inventory item via the at least one electronic marketplace (col. 6, lines 41-43).

**As per claims 4 and 18**, Salvo discloses the one or more optimal parameters comprise an optimal quantity of the at least

one inventory item to acquire via the at least one electronic marketplace (col. 6, lines 32-34 and lines 47-63).

**As per claims 5 and 19**, Salvo discloses the step of one of aggregating and disaggregating the collected information in order to determine the one or more optimal parameters (col. 6, lines 47-62).

**As per claims 6 and 20**, Salvo discloses the step of automatically placing an order for the at least one item on the at least one electronic marketplace (col. 9, lines 41-47).

**As per claims 7 and 21**, Salvo discloses the step of automatically generating an alert to an individual that an order may need to be placed for the at least one item (col. 8, lines 51-55).

**As per claims 8 and 22**, Salvo discloses the step of automatically collecting information further comprises collecting usage pattern information associated with the at least one item (col. 10, lines 9-19).

**As per claims 9 and 23**, Salvo discloses the step of accessing the at least one electronic marketplace further comprises gather information on a market condition associated with the at least one inventory item (col. 6, lines 11-19).

**As per claim 11**, Salvo discloses receiving, in accordance with a first machine, a data signal generated by a sensor system indicative of a status of an inventory of items being monitored by the sensor system (col. 4, lines 59-62) and procuring, in accordance with a second machine via at else one electronic marketplace, additional such items for an end consumer based on the data signal and depending on one or more optimal market conditions associated with the items (col. 5, lines 1-10 and col. 6, lines 7-28).

**As per claim 12**, Salvo discloses the data signal generated by the sensor system is passed through from the sensor system to the first machine via at least a third machine serving as a gateway (FIG 1; Examiner interprets "112" (col. 4, line 60) site controller to be a machine serving as a gateway).

**As per claim 13**, Salvo discloses the sensor system is embedded (col. 4, lines 32-33).

**As per claim 14**, Salvo discloses the data signal further comprises information about a history of inventory of such items (col. 7, lines 23-27 and col. 8, lines 31-33; Examiner interprets "inventory trends" to encompass data based on history and future predictions for such items).

**As per claim 15**, Salvo discloses at least one processor operative to: (i) receive automatically collected information relating to a stats associated with at least one inventor item and (ii) automatically access at least one electronic market place in order to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item via the at least one electronic marketplace (col. 4, lines 59-62; col. 5, lines 1-10; col. 6, lines 7-28) and memory coupled to the at lese one processor for storing at least the collected status information (col. 5, lines 50-64).

**As per claim 25**, Salvo discloses at least one sensor operative to automatically obtain information relating to a status associated with at least one inventory item and at least one computer system, operatively coupled to the at least one sensor, operative to receive the status information and to

automatically access at least one electronic marketplace in order to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item in accordance with at least one provider of the item via the at least one electronic marketplace (col. 4, lines 59-62; col. 5, lines 1-10; col. 6, lines 7-28).

**As per claim 26**, Salvo discloses at least another computer system, operatively coupled between the at least one sensor and the first computer system, operative to serve as a gateway (FIG 1; Examiner interprets "112" (col. 4, line 60) site controller to computer system serving as a gateway).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo et al. U.S. Pat. 6,341,271 (hereinafter Salvo) in view of Whiteis U.S. Pat. 5,749,081.

**As per claims 10 and 24**, Salvo fails to disclose the step of automatically generating a recommendation of at least one of a different brand and different type of an item to a consumer of the inventory.

However, Whiteis discloses the step of automatically generating a recommendation of at least one of a different brand and different type of an item to a consumer of the inventory (col. 3, lines 12-23).

It would be obvious to one skilled in the art at the time the invention was made to modify Salvo's method to include the step of automatically generating a recommendation of at least one of a different brand and different type of an item to a consumer of the inventory as taught by Whiteis. The motivation to combine would allow for a system that does not require any manual setup of the relationships between the items that are available for recommendations (col. 2, lines 17-20).

**Response to Arguments**

Applicant's arguments filed 03 February 2006 have been fully considered but they are not persuasive.

**With respect to Applicant's argument of claims 1, 11, 15 and 25,** the Applicant argues "Salvo does not disclose the concept of automated inventory replenishment via electronic marketplaces" further "replenishing the at least one inventory item via the at least one electronic marketplace" as in claim 1; and "procuring in accordance with a second machine via at least one electronic marketplace" as in claim 2. The Examiner disagrees.

Salvo discloses the concept of automated inventory replenishment via electronic marketplaces (ABSTRACT) .

Salvo discloses replenishing the at least one inventory item via the at least one electronic marketplace (col. 6 7-61) . Examiner interprets that the "inventory price source" utilizes economic price indicators in making its decisions on purchasing, but the "inventory price source" also contains purchase prices from the different vendors (col. 6, lines 47-49); thus an electronic marketplace. The Examiner would also like to note that on page 3, Summary of the Invention, defines that the

applicant's invention "is not limited to any particular market place." Therefore, the Examiner will interpret an electronic marketplace with the broadest reasonable interpretation possible. Salvo discloses automation of ordering inventory items (col. 3, lines 52-57).

Salvo further discloses procuring in accordance with a second machine via at least one electronic marketplace (col. 6, lines 9-13 and col. 7, lines 23-27). Examiner interprets the control unit utilizing the Internet to connect to the inventory price source to obtain information, which is then sent back to the control unit (col. 6, lines 9-13 and col. 7, lines 23-27); thus procuring with a second machine via an electronic marketplace. Thus the argument is not persuasive.

**With respect to Applicant's argument of claims 10 and 24,** the Applicant argues "Whities fails to remedy the deficiencies of Salvo, as explained above, and since such claims are respectively dependent on claims 1 and 15, it is asserted that such claims are patentable over the cited combination" further "it is asserted that such claims recite patentable subject matter in their own right." The Examiner disagrees. Salvo discloses the concept of automated inventory replenishment via electronic marketplaces (ABSTRACT). Whiteis discloses the

recommending a different brand and type of item to a consumer of the inventory (col. 1, lines 64-67 and col. 2, lines 1-15, col. 3, lines 12-37; col. 9, lines 26-35; Examiner interprets type could consist of different genres of a given field). The Examiner did provide a *prima facie* case of obviousness: motivation was cited, there is reasonable expectation of success, and the references teach or suggest all of the limitations of the claim. Thus the argument is not persuasive.

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner would like to apologize for the typographical error found in the motivation statement. The motivation statement should read and is found, as is cited in the previous office action, in Whities "... would allow for a system that does not require any manual setup of the

relationships between the items that are available for recommendations (col. 2, lines 17-20). Thus the argument is not persuasive.

**With respect to Applicant's argument of claims 2-9, 12-14, 16-23, and 26,** which depend from their respective independent claims, these arguments are moot with respect to the response provided above.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

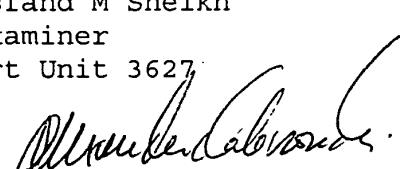
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571) 272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Asfand M Sheikh  
Examiner  
Art Unit 3627

  
ALEXANDER KALINOWSKI  
SUPERVISORY PATENT EXAMINER

*AKS*  
4/5/06